

## GENERAL INFORMATION

### NEW NONPUBLIC, NONSECTARIAN SCHOOL APPLICATION

CERTIFICATION SHOULD NOT BE CONSTRUED AS AN EVALUATION, ACCREDITATION, APPROVAL, RECOGNITION, OR ENDORSEMENT OF ANY NONPUBLIC AGENCY, SCHOOL, OR COURSE.

The following information is from the *Education Code (EC)*, *Code of Federal Regulations (CFR)*, *California Code of Regulations (CCR)*, as well as policies and procedures approved by the State Board of Education (SBE). This information is provided for assistance and clarification in the development of the application. For further information, refer to the cited documents.

### **NONPUBLIC, NONSECTARIAN SCHOOL**

A nonpublic, nonsectarian school (NPS) is identified as a private, nonsectarian school that enrolls individuals with exceptional needs pursuant to an individualized education program (IEP), employs at least one full-time teacher who holds an appropriate teaching credential for special education services, and is certified by the California Department of Education (CDE). It does not include an organization or agency that operates as a public agency or offers public service, including, but not limited to, a state or local agency, an affiliate of a state or local agency, including a private, nonprofit corporation established or operated by a state or local agency, a public university or college, or a public hospital.

[*Education Code § 56034*]

A public hospital, state licensed children's hospital, psychiatric hospital, proprietary hospital, or a health facility for medical purposes located either within and outside of this state . . . pursuant to *EC 56168(a)*, is ineligible for certification as an NPS.

The NPS shall meet those standards as prescribed in federal and state statutes and regulations pertaining to special education. "A nonpublic, nonsectarian school shall also meet standards as prescribed by the superintendent and the board." [*Education Code § 56034*]

"It is the intent of the Legislature that the role of the nonpublic, nonsectarian school shall be maintained and continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents." [*Education Code § 56366*]

A nonpublic, nonsectarian school shall not claim, and is not entitled to receive reimbursement for attendance, unless: (1) under contract with a public education agency (i.e., school district, special education local plan area (SELPA), or county office), pursuant to the provision of *EC 56366(c)*; and (2) the site location where the student is receiving special education or designated instruction and services, has been certified by CDE.

Students supported by federal and state education funds shall have been previously identified as eligible to receive a specially designed education and services by the public education agency where the pupil resides (a school district or county office of education), and has a current IEP (the IEP is a plan developed between the local public school district, the parents, along with a participant from the nonpublic, nonsectarian school, to decide the kinds of services each student needs).

A NPS that is located outside of this state is eligible for certification pursuant to EC 56366.1 only if a pupil is enrolled in a program operated by that school pursuant to the recommendation of an IEP team in California, and if that pupil's parents or guardians reside in California.

## **SPECIAL EDUCATION**

“Special Education” means specially designed instruction, at no cost to the parent, to meet the unique needs of individuals with exceptional needs, whose education needs cannot be met with modification of the regular instruction program, and related services, at no cost to the parent, that may be needed to assist these individuals to benefit from specially designated instruction.

Special education is an integral part of the total public education system and provides education in a manner that promotes maximum interaction between children or youth with disabilities and children or youth who are not disabled, in a manner that is appropriate to the needs of both.

Special education provides a full continuum of program options to meet the educational and service needs of individuals with exceptional needs in the least restrictive environment.”

[*Education Code* § 56031]

## **DESIGNATED INSTRUCTION AND SERVICES**

“Designated instruction and services (DIS) as specified in the IEP shall be available when the instruction and services are necessary for the pupil to benefit educationally from his or her instructional program. The regular education class teacher, the special education class teacher, or the resource specialist shall provide the instruction and services if the teacher or specialist is competent to provide such instruction and if the provision of such instruction and services by the teacher or specialist is feasible. If not, the appropriate designated instruction and services specialist shall provide such instruction and services. Designated instruction and services shall meet standards adopted by the board.”

[*Education Code* § 56363(a)]

For definitions of DIS and staff qualifications standards, see *CCR, Title 5*, section 3064 and 3065.

## **NONSECTARIAN**

“Nonsectarian” means a nonpublic school or agency that is not owned, operated, controlled by, or formally affiliated with a religious group or sect, whatever might be the actual character of the education program or the primary purpose of the facility. [*California Code of Regulations*, § 3001(w)]

## **LICENSED CHILDREN'S INSTITUTION**

A licensed children's institution (LCI), means a residential facility which is licensed by the state, or other public agency having delegated authority by contract with the state to: (1) license; (2) provide non-medical care to children, including, but not limited to, individuals with exceptional needs; and (3) includes a group home, as defined by *CCR, Title 22*, section 80001.

An LCI does not include any of the following:

- A juvenile court school, juvenile hall, juvenile home, day center, juvenile ranch, or juvenile camp.
- A county community school program.
- Any special education programs provided pursuant to EC 56150.
- Any other public agency. [*Education Code § 56155.5(a)*]

## **HOSPITAL**

A hospital is a health care facility licensed by the State Department of Health Services.  
[*Education Code § 56361.5(a)*]

## **HEALTH FACILITY**

A health facility is any facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, and includes the following types: [*Health and Safety Code § 1250, 1250.2, and 1250.3*]

- General acute care
- Skilled nursing
- Intermediate care-developmental disabilities
- Intermediate care-other
- Acute psychiatric
- Specialized care, with respect to special hospitals only
- Chemical dependency recovery
- Intermediate care facility/developmentally disabled habilitative
- Intermediate care facility/developmentally disabled nursing
- Congregate living health facility
- Pediatric day health and respite care facility
- Correctional treatment center [*Health and Safety Code § 1250*]

## **CONTRACTS**

### **Master Contract**

“The master contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office to provide the special education and designated instruction and services, as well as transportation specified in the pupil's individualized education program. The administrative provisions of the contract also shall include procedures for record keeping and documentation, and the maintenance of school records by the contracting district, special education local plan area, or county office to ensure that appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.”  
[*Education Code § 56366(a)(1)*]

## **Individual Services Agreement**

“The master contract shall include an individual services agreement for each pupil placed by a district, special education local plan area, or county office that shall be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the student's individualized education program.” **[Education Code § 56366(2)(A)]**

“Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.” **[Education Code § 56366(a)(3)]**

“At any time during the term of the contract or individual services agreement, the parent; nonpublic, nonsectarian school or agency; or district, special education local plan area, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office.” **[Education Code § 56366(a)(3)]**

“The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.” **[Education Code § 56366(a)(4)]**

“The nonpublic, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office agree otherwise in the contract or individualized services agreement.” **[Education Code § 56366(a)(5)]**

“The district, special education local plan area, or county office shall pay to the nonpublic, nonsectarian school or agency the full amount of the tuition for individuals with exceptional needs that are enrolled in programs provided by the nonpublic, nonsectarian school pursuant to the contract.”  
**[Education Code § 56365(d)]**

Please note: The Office of Nonpublic Schools and Agencies, has developed Policy Memorandum 94-03, which is a sample uniform Master Contract, and Policy Memorandum 94-04, which is a sample Individual Service Agreement. Please call (916) 327-0141 to obtain copies of these memorandums.

## **CERTIFICATION STANDARDS**

“No master contract for special education and related services provided by a nonpublic, nonsectarian school or agency shall be authorized under this part unless a school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school or

agency receiving approval to educate pupils for a period no longer than four years from the date of the approval.” The procedures, methods, and areas of certification, including information required for purposes of the application specified in *EC 56366.1*, have been established by rules and regulations issued by the California State Board of Education (SBE) that shall include, but not be limited to, procedures for conducting on-site reviews of the nonpublic school program and provisions specific to providing special education and related services to individuals with exceptional needs from birth to preschool. In addition to those standards have been adopted by the SBE, the school shall meet all applicable standards relating to fire, health, sanitation, and building safety. [*Education Code § 56366.1*]

## **CERTIFICATION FEES**

A school shall be charged a reasonable fee for certification. CDE may adjust the fee annually commensurate with the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance if the percentage increase is reflected in the district revenue limit for inflation purposes. For purposes of this section, the base fee shall be the following:

* 1 - 5	pupils	-	\$ 159.00
6 - 10	pupils	-	\$ 265.00
11 - 24	pupils	-	\$ 530.00
25 - 75	pupils	-	\$ 795.00
Over 75	pupils	-	\$1,059.00

\*Program capacity-the **maximum** number of students to be served by your program.

An NPS shall pay certification fees when it applies for certification and when it submits its annual renewal update application to the CDE. The CDE shall use these fees to conduct on-site reviews, which may include field experts. No fee shall be refunded if the application is withdrawn or is denied by the CDE. [*Education Code § 56366.1 (j)*]

Certification fees are required with the application in the form of either a personal or business check, money order, or cashier's check made payable to: CALIFORNIA DEPARTMENT OF EDUCATION.

**Note: Include the name of the school on the check or money order.**

## **STAFF QUALIFICATIONS AND REQUIREMENTS**

“Qualified” means that a person has met federal and state certification, licensing, registration, or other comparable requirements which apply to the area in which he or she is providing special education or related services, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation, including the standards contained in the California Business and Professions Code. Nothing in this definition shall be construed as restricting the activities in services of a graduate student needing direct hours leading to licensure, or of a student teacher or intern leading to a graduate degree at an accredited or approved college or university, as authorized by state laws or regulations.

[*California Code of Regulations, Title 5, § 3001(y)*]

“Notwithstanding any other provision of law, only those nonpublic, nonsectarian schools and agencies that provide special education and designated instruction and services utilizing staff that hold, or are receiving training under the supervision of staff that hold, a current valid California credential or license in the service rendered shall be eligible to receive certification.”

“Only those nonpublic, nonsectarian schools and agencies located outside of California that employs staff who holds a current valid credential or license to render special education and related services, as required by that state’s regulations shall be eligible to be certified for the placement of California students.” *[Education Code § 56366.1 (k)(1)]*

“Nothing in this subdivision restricts student teachers, interns, or other staff who are enrolled in training programs that lead to a license or credential that authorizes the holder to render services to special education students and who are under the direct supervision of a staff member who holds a current valid California credential, license, or certificate of registration document.”

*[Education Code § 56366.1(k)(2)]*

### **Restrictions on Staffing**

- A nonpublic, nonsectarian school that employs only persons who hold a valid California credential authorizing substitute teaching pursuant to Section 56060 shall not be certified. At least one full-time person with a current valid California credential, license, or certificate of registration in the area of service to be rendered, or a current valid credential, license, or certificate of registration for appropriate special education and related services rendered that is required in another state, shall be required for purposes of certification under subdivision (d) of 56366. *[Education Code § 56366.1 (k)(3)]*
- A nonpublic, nonsectarian school that employs persons holding a valid emergency special education credential shall document efforts of recruiting appropriately credentialed, licensed, or registered personnel for the special education and related services rendered as a condition of renewing certification. *[Education Code § 56366.1 (k)(4)]*

“Credential” means any valid credential, life diploma, permit, or document in special education or pupil personnel services issued by, or under the jurisdiction of, the State Board of Education prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required. *[California Code of Regulations, Title 5, § 3001(j)]*

### **Staff Fingerprint Clearance Requirements**

Pursuant to Education Code section 44237, all persons hired after September 30, 1997, who have contact with pupils, must have a completed Department of Justice (DOJ) criminal history clearance before they can be employed by the nonpublic school. For the most current information on fee and fingerprint submissions, please see the DOJ website at [www.caag.state.ca.us/app](http://www.caag.state.ca.us/app) or call (916) 322-2090.

### **Tuberculosis (TB) Clearance Requirements**

Retain TB examination clearance forms at the agency site. Do not submit the clearance unless requested. TB clearances are valid for four (4) years. Skin tests must be the Mantoux 5TU Co.1 cc P.P.D injected intradermally; other skin tests are not acceptable. Only those with documented, positive skin tests may submit certificates to prove absence of active tuberculosis (this may or may not include a chest x-ray). [*Education Code § 49406; Health and Safety Codes § 121525-121555*]

### **EACH SITE SHALL BE CERTIFIED**

Pursuant to Education Code section 56366.1(b), if a nonpublic school operates a program at more than one site, each site shall be certified. If an NPS operates a facility or program on more than one site, they shall not claim and are not entitled to receive reimbursement for attendance unless under a contract with a local education state (LEA), i.e., school district, special education local plan area (SELPA), or county office of education, and the site where the student is receiving special education or designated instruction and services, is certified. [*Education Code § 56366.1(b)*]

### **PETITION TO WAIVE REQUIREMENTS**

There are two separate waiver processes to follow depending on the Education Code to be waived.

#### **State Board Waivers [*Education Code § 56101*]**

A district, special education local plan area, county office, or public education agency may request the board to grant a waiver of any provision of this code or regulations adopted pursuant to that provision if the waiver is necessary or beneficial to the content and implementation of the pupil's individualized education program.

All special education waiver requests as defined in EC section 56101 must be petitioned to the State Board of Education for processing through the California Department of Education's Office of the Chief Deputy Superintendent for Policy and Programs.

To request Specific Waiver Request forms, please contact the CDE Waiver Office at (916) 319-0824. All State Board of Education waiver requests are to be mailed to the California Department of Education, Waiver Office, 1430 N Street, Suite 5602, Sacramento, CA 95814.

#### **Superintendent Waivers [*Education Code § 56366.2*]**

A Superintendent Waiver does not require approval by the State Board of Education.

A district, special education local plan area, county office, nonsectarian school, or nonpublic nonsectarian agency may petition the superintendent to waive one or more of the requirements under EC 56365, 56366, 56366.3, and 56366.6.

All special education waiver requests petitioned to the superintendent are processed through the California Department of Education, Special Education Division, Office of Nonpublic Schools and Agencies.

To request a waiver form, contact the Office of Nonpublic Schools and Agencies at (916) 327-0141. All Superintendent Waivers are to be mailed to the California Department of Education, Special Education Division, Office of Nonpublic Schools and Agencies, 428 J Street, Suite 500, Sacramento, CA 95814.

## **APPLICATION FOR CERTIFICATION**

A nonpublic, nonsectarian school that seeks certification shall file an application with the CDE on current year forms provided by the department and include the following information on the application:

1. A description of the special education and designated instruction and services provided to individuals with exceptional needs if the application is for nonpublic, nonsectarian school certification.
2. A list of appropriately qualified staff, type of credential, license, or registration that qualifies each staff member to render special education or designated instruction and services, and copies of their credentials, licenses, or certificates of registration with the appropriate state or national organization that has established standards for the service rendered.
3. Affidavits and assurances necessary to comply with all applicable federal, state, and local laws and regulations which include criminal record summaries are required of all nonpublic school or agency personnel having contact with minor children under Section 44237.

[*Education Code § 56366.1(a)*]

For further clarification, refer to ***California Code of Regulations, Title 5, section 3060.***

## **VALIDATION REVIEW - (California Schools Only)**

A new nonpublic, nonsectarian school is subject to a validation onsite review prior to the issuance of certification. After the validation onsite review is scheduled, the nonpublic, nonsectarian school shall be sent a confirmation letter and a copy of the validation onsite review document (see attached). Advance preparation for the validation onsite review is encouraged. The validation onsite review shall consist of the review of the program's operational standards, instructional materials, and school facility. If the operational standards do not meet current requirements, certification may be denied or issued conditionally with corrective actions required. [*California Code of Regulations, Title 5, § 3064*]

The CDE, as part of its certification process and complaint investigation process for nonpublic, nonsectarian schools shall provide advance notice of certification reviews to the contracting district, SELPA, or county office. A copy of the final report of certification reviews and complaint investigations will be transmitted to nonpublic, nonsectarian school. [*Education Code § 56366.8*]

If the nonpublic, nonsectarian school meets all application requirements, it shall receive a three-month conditional certification. During these three months, the nonpublic school shall be scheduled for an onsite review.

Conditional certification authorizes the new nonpublic, nonsectarian school to begin contracting with school districts to provide appropriate special education and DIS services for students.



## **ONSITE REVIEW**

Prior to full certification, the CDE shall conduct an onsite review of the facility and program for which the applicant seeks certification.

The CDE may be assisted by representatives of the special education local plan area in which the applicant is located and a nonpublic, nonsectarian school or agency representative who does not have a conflict of interest with the applicant. The CDE shall conduct an additional onsite review of the facility and program within four years of the certification effective date, unless the CDE conditionally certifies the school or agency, or unless the CDE receives a formal complaint against the school or agency. In the latter two cases, the CDE shall conduct an onsite review at least annually. [*Education Code § 56366.1(d)*] The CDE onsite review does not abrogate the responsibility of the local educational agency to supervise the delivery of education and services by the nonpublic school or agency to the student.

Advanced preparation for the onsite review is encouraged. After the onsite review is scheduled, a confirmation letter and copy of the onsite review document shall be sent to the school. It is suggested that the nonpublic, nonsectarian school conduct a self-evaluation prior to the onsite review and be prepared to respond to each item on the review document.

### **Onsite Review at Any Time Without Notice**

The superintendent may conduct an onsite review to monitor a nonpublic, nonsectarian school or agency at any time without prior notice when there is substantial reason to believe that there is an immediate danger to the health, safety, or welfare of a child. The superintendent shall document the concern and submit it to the nonpublic, nonsectarian school or agency at the time of the onsite monitoring. The superintendent shall require a written response to any noncompliance or deficiency found. [*Education Code § 56366.1(h)*]

For further clarification, refer to Title 5, *California Code of Regulations* 3060.

## **APPLICATION REVIEW PROCESS**

The CDE will make a determination on an application within 120 days of receipt of the application and will certify, conditionally certify, or deny certification to the applicant. If the CDE fails to take one of these actions within 120 days, the applicant is automatically granted conditional certification for a period terminating on August 31, of the current school year. If certification is denied, the CDE shall provide reasons for the denial. [*Education Code § 56366.1(e)*]

The superintendent shall annually review the certification of each nonpublic, nonsectarian school. For this purpose, a certified school shall annually update its application between August 1 and October 31. The CDE may conduct an onsite review as part of the annual review. [*Education Code § 56366.1(g)*]

## **NOTICE TO INITIATE OR EXPAND SERVICES**

“Notwithstanding any other provision of law, the superintendent may not certify a nonpublic, nonsectarian school or agency that proposes to initiate or expand services to pupils currently educated in the immediate prior fiscal year in a juvenile court program, community school pursuant to Section 56150, or other non-special education program, including independent study or adult school, or both, unless the nonpublic, nonsectarian school or agency notifies the county superintendent of schools and the special education local plan area in which the proposed new or expanded nonpublic, nonsectarian school or agency is located of its intent to seek certification.”  
[*Education Code § 56366.1(i)(1)*]

Pursuant to the provision of *EC 56366.1(i)(4)*, notwithstanding any other provision of law, the certification becomes effective no earlier than July 1 of the following year, if the school or agency provided the notification required, in paragraph (1).

“The notification shall occur no later than the December 1 prior to the new fiscal year in which the proposed or expanding school or agency intends to initiate services. The notice shall include the following:

- A. The specific date upon which the proposed nonpublic, nonsectarian school or agency is to be established.
- B. The location of the proposed program or facility.
- C. The number of pupils proposed for services, the number of pupils currently served in the juvenile court, community school, or other non-special education program, the current school services including special education and related services provided for these pupils, and the specific program of special education and related services to be provided under the proposed program.
- D. The reason for the proposed change in services.
- E. The number of staff that will provide special education and designated instruction and services and hold a current valid California credential or license in the service rendered or certificate of registration to provide occupational therapy.” [Education Code § 56366.1(j)(2)(A-E)]

“In addition to the requirements in subdivisions (a) through (e), inclusive, the superintendent shall require and consider the following in determining whether to certify a nonpublic, nonsectarian school or agency as described in this subdivision:

- A. A complete statement of the information required as part of the notice under paragraph 1.
- B. Documentation of the steps taken in preparation for the conversion to a nonpublic, nonsectarian school or agency, including information related to changes in the population to be served and the services to be provided pursuant to each pupil's individualized education program.”  
[Education Code § 56366.1(i)(3)(A)(B)]

“Notwithstanding any other provision of law, the certification becomes effective no earlier than July 1, if the school or agency provided the notification required.” [Education Code § 56366.1(i)(4)]

## **CAUSES FOR SUSPENSION OR REVOCATION OF CERTIFICATION**

“The superintendent may suspend or revoke the certification of a nonpublic, nonsectarian school or agency for any of the following reasons:

1. Violation of any applicable state or federal rule or regulation, or aiding, abetting, or permitting the violation of any applicable state or federal rule or regulation.
2. Falsification or intentional misrepresentation of any element of the application, pupil records, or program presented for certification purposes.
3. Conduct in the operation or maintenance of the nonpublic, nonsectarian school or agency that is harmful to the health, welfare or safety of an individual with exceptional needs.
4. Failure to comply with any provision in the contract with the local education entity.
5. Failure to notify the department in writing of any of the following within 45 days of the occurrence:
  - (A) Changes in credentialed, licensed, or registered staff who render special education and related services, ownership, management, or control of the nonpublic, nonsectarian school or agency.
  - (B) Major modification or relocation of facilities.
  - (C) Significant modification of the nonpublic, nonsectarian school or agency program.
6. Failure to implement recommendations and compliance requirements following an onsite review of the school or agency.
7. Failure to provide appropriate services, supplies, equipment, or facilities for a pupil as required in his or her individualized education program.
8. Failure to notify the superintendent within 10 days of the revocation or suspension of any license or permit including, but not limited to, any residential care license, business license, or other required license or permit.
9. Failure to implement a pupil's individualized education program.
10. Failure to notify the superintendent in writing within 10 days of the death of a pupil or any other individual of unnatural causes within the school or agency, including the circumstances surrounding the death and any appropriate preventative measures being taken or recommended.

The superintendent shall notify contracting local education agencies and the special education local plan area in which the nonpublic, nonsectarian school is located of the determination to suspend or revoke state certification.” [Education Code § 56366.4]

## **REQUEST AND REVIEW OF NOTICE OF DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION**

- Within 20 working days following the nonpublic, nonsectarian school's or agency's receipt of the notice of denial, revocation, or suspension of certification, the nonpublic, nonsectarian school or agency may file a written petition to request a review of the decision by CDE. The petition may include written arguments or a request to present an oral argument.
- Within 30 working days after the receipt of the written petition, the superintendent or a designee shall review a written, reasoned decision that shall be the final administrative decision. CDE shall be impartial, unbiased, and shall not have participated in the Department decision to deny, revoke, or suspend the nonpublic, nonsectarian school or agency certification.

- Any public education agency that contracts with a certified nonpublic, nonsectarian school may request the Superintendent to review the status of the nonpublic school or agency. The request shall be in writing and a copy sent to the nonpublic school or agency. [*Education Code § 56366.6*]

**For more information, please contact the Office of Nonpublic Schools and Agencies at (916) 327-0141 to request a copy of the Appeal Process, Program Advisory No. 93-02 (Revised).**

### **GUIDELINES FOR SITE RELOCATION**

Notification must be provided in writing to the CDE within 45 days of a program move. A new fire clearance, health clearance, building safety inspection, zoning clearance, business license, written disaster and mass casualty plan of action must be submitted. Contact the Office of Nonpublic Schools and Agencies at (916) 327-0141 to request forms or visit the Special Education website at <http://www.cde.ca.gov/spbranch/sed>.

### **INSTRUCTIONAL CONSIDERATIONS**

Instructional services may be provided by both the district or county office of education and the nonpublic school to meet the requirements of the IEP. Under dual attendance, the student is formally enrolled in both facilities. The nonpublic school is reimbursed as stipulated in the individual service agreement for the student. Changes in education instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program. [*Education Code § 56366*]

The term “free appropriate public education” means special education and related services that—

- Are provided at public expense, under public supervision and direction, and without charge;
- Meet the standards of the State educational agency, including the requirements of this part;
- Include preschool, elementary school, or secondary school education in the State involved; and
- Are provided in conformity with an IEP that meets the requirements of state and federal laws and regulations.

Each state educational agency shall ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency:

- Is provided special education related services—
  - In conformance with an IEP that meets the requirements of state and federal laws and regulations.
  - At no cost to the parents; and
  - At a school or facility that meets the standards that apply to the state educational agency and local educational agencies (including the requirements of this part); and
- Has all of the rights of a child with a disability who is served by a public agency.

### **ATTENDANCE AND RECORDS**

The administrative provisions of the master contract shall include procedures for records keeping and documentation, and the maintenance of school records by the contracting district, special education local plan area, or county office of education to ensure that appropriate high school

graduation credit is received by the student. The contract may allow for partial or full time attendance at the nonpublic, nonsectarian school. [*Education Code § 56366(a)(1)*]

Questions relating to laws on attendance and student records should be addressed to the California Department of Education, School Fiscal Services Division, P.O. Box 944272, Sacramento, CA 94244-2720 or call (916) 322-3024.

In addition, the Compliance and Monitoring Unit, Office of Nonpublic Schools and Agencies has developed Policy Memorandum No. 94-05. This policy memorandum provides guidelines for reporting attendance. Please call (916) 327-0141 to obtain a copy of this memorandum.

## **GRADUATION/DIPLOMA**

The Master Contract requires that “when an individual with exceptional needs meets public education agency requirements for completion of prescribed course of study and adopted differential proficiency standards as designated in the pupil’s individualized education program, the public education agency which developed the individualized education program shall award the diploma.” [*California Code of Regulations, Title 5, § 3020*]

“No diploma, certificate or other document, except transcripts and letters of recommendation, shall be conferred on a pupil as evidence of completion of a prescribed course of study or training, or of satisfactory attendance, unless such pupil has met the standards of proficiency in basic skills prescribed by the governing board of the high school district, or equivalent thereof.” [*Education Code § 51412*]

## **CHILD ABUSE REPORTING**

Statutes in the California State Penal Code require that private school personnel report any observed or suspected instances of child abuse by telephone within 24 hours and in writing to the appropriate public authorities within 36 hours.

All personnel employed after January 1, 1985, are required to sign a statement acknowledging the reporting requirements in the case of observed or suspected cases of child abuse. This statement must be maintained in the employee's personnel file. [*Penal Code 11166.5*]

## **MAILING INSTRUCTIONS**

Send the completed application forms, supplemental information, and application fee to the address below. The certification fee must be included with the required application forms, in the form of a personal or business check, money order, or cashier's check (made payable to the ***California Department of Education***). Retain a copy of your application for your files.

### **Mailing address for USPS regular mail and overnight Express Mail:**

California Department of Education  
Special Education Division  
Office of Nonpublic Schools and Agencies  
P.O. Box 1738  
Sacramento, CA 95812-1738

### **Physical address for UPS, FedEx, etc., and overnight mail/packages:**

California Department of Education  
Special Education Division  
Office of Nonpublic Schools and Agencies  
428 J Street, Suite 500  
Sacramento, CA 95814

**Note:** To assist the Office of Nonpublic Schools and Agencies in processing and logging your application, please do not submit your application in a binder, bounded, or in page cover sheets. It is helpful when the application is either stapled or paper clipped, and the check is paper clipped to the application. The nonpublic school should maintain copies of the application forms and general information for future reference.